

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**JANICE JACKSON, INDIVIDUALLY,
AND AS REPRESENTATIVE OF THE
ESTATE OF HER LATE HUSBAND,
MICHAEL WAYNE JACKSON;
ARLENE GALLIEN, INDIVIDUALLY
AND AS REPRESENTATIVE OF THE
ESTATE OF CARL WILEY JR.;
CAMILA SIMPSON A/N/F XXXXXXXX
XXXXX, GYNELL HENDERSON,
INDIVIDUALLY AND AS
REPRESENTATIVE OF THE ESTATE
OF RASHAD HENDERSON; AND JOHN
HENDERSON JR., INDIVIDUALLY,**

Plaintiffs,

V.

THE CITY OF HOUSTON,

Defendant.

CIVIL ACTION NO. 4:23-CV-00052

DEFENDANT CITY OF HOUSTON’S NOTICE OF INTERLOCUTORY APPEAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendant, the City of Houston (“Defendant” or “City”), hereby appeals to the United States Court of Appeals for the Fifth Circuit from the District Court’s Order entered on January 4, 2024 [Doc. 36], granting the City’s Motion to Certify the Court’s October 26, 2023, Order [Doc. 28], for interlocutory appeal, having determined that the Order involves a “controlling question of law” concerning the only Defendant in this lawsuit, and “there is a substantial ground for difference of opinion on this issue in light of the cases identified in Defendant’s Motion [Docs. 31, 17, 26], and the resolution of this question on interlocutory appeal would terminate this litigation once and for each party of the lawsuit, and, therefore, the certification of appeal is in everyone’s best

interests;” and “that there is no just reason for delay and good cause has been shown to allow interlocutory appeal of this matter.” [Doc. 36.]

The City’s November 20, 2023, Notice of Interlocutory Appeal from the denial of governmental immunity [Doc. 29] sought permissive appeal under 28 U.S.C.S. § 1292(b) and Fed. R. App. P. 5 regarding subject matter jurisdiction and whether Plaintiffs possess standing to assert federal claims. These questions are inextricably intertwined with the issues pending in the appeal docketed under *Jackson, et al. v. City of Houston*, Case No. 23-20574 in the United States Court of Appeals for the Fifth Circuit, and early resolution of the jurisdictional issue significantly determines the future course of litigation and materially advances time-efficient dispute resolution. *See e.g. Bertulli v. Indep. Ass’n of Cont’l Pilots*, 242 F.3d 290 (5th Cir. 2001).

Respectfully submitted,

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City Attorney

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Section Chief, Torts/Civil Rights

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CERTIFICATE OF SERVICE

I certify that on this 12th day of January 2024, pursuant to Federal Rules of Civil Procedure, a true and correct copy of the foregoing document, and any attachments, were delivered to all opposing counsel(s) by electronic filing of same in accordance with the District's ECF service rules, and alternatively via e-mail and/or facsimile transmission, to:

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